ATTACHMENT 1

STATEMENT OF JUSTIFICATION FOR THE DOWNZONING

This request to downzone the property from R-2 to R-1 is an essential part of an overall package aimed at accomplishing a subdivision of the property, which, without this package, could not be realized because of a density problem -- the original lack of sufficient acreage to meet today's R-1 zoning requirement that only nine-tenths of a house may be constructed on one acre.

As part of the April 25, 2003 upzoning request, I agreed and stipulated the following:

> "I also proffer that, once the new subdivision is concluded and approved, I will apply within 90 days thereafter, for a rezoning of the area back to R-1, so as to preserve the character of zoning in this neighborhood. In addition, I proffer that, during the period when the zoning is R-2, there will be no new additional house constructed on this property."

The present application to downzone is essential to fulfill this proffer.

A full copy of the April 25th, 2003, STATEMENT OF JUSTIFICATION is attached hereto, and provides a full description of the subdivision undertaking and the role of rezoning therein.

Leocade Leighton, November 19, 2003

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COMMUNITY DEVELOPMENT
FAUQUIER COUNTY, VA

STATEMENT OF JUSTIFICATION FOR THE REZONING

In Chancery Case Number 87-7902, in the Circuit Court of Fauquier County, the Court ruled that two divisions of land approved by the County were illegal and void ab initio. The first was DB 562-898 which split Coles Building Corporation's 5.4 acre parcel into two lots, approved May 8, 1987 as a boundary adjustment, whereas, if a new boundary is drawn so as to create an additional lot, it cannot be classed as a boundary adjustment but is a subdivision and must meet the qualifications of the Subdivision Ordinance and must be processed as such. The second plat ruled to have been illegally approved by the County was DB 250-625, a plat of three one-acre properties, total three acres, dated October 15, 1968. There was nothing within the bounds of the three-acre plat itself which was illegal -- the problem was that this plat of subdivision left behind a remnant parcel of less than one acre (DB 251-302) which did not qualify as a house lot, contrary to Subdivision Ordinance section 4-22 (then and now), and which was sold separately. The remnant parcel itself, seven tenths of an acre, constituted the third plat found by the Court to be illegally constituted and void ab initio. These three adjoining parcels, all without valid boundaries and plats, total about 8½ acres net of streets.

All the boundaries set by these plats have therefore vanished. The land area formerly covered by these plats is now one single, undivided 8½ acre tract. The persons who formerly thought they owned pieces of this territory, currently own an 8½ acre tract in common, and claim in severalty. There is currently no legal way of knowing where one person's ownership interest ends and another's begins. Our titles are defective and the properties cannot legally be bought and sold.

To remedy this situation, the Court ordered owners of all land covered by the illegal plats to proceed through the subdivision process once again, this time meeting all current legal requirements, with a single plat covering the whole. (Decree Consequent Upon Hearing of December 17, 1992, entered by Judge Horne April 19, 1993.) This we did up to the point of obtaining Preliminary Plat approval of a five-lot subdivision on May 19, 1998.

However, the 18-month life of the 5-lot Preliminary Plat was exhausted in November of 1999. The Court has now -- by Decree of March 7, 2003 -- permitted all parties to proceed with subdivisions of various numbers of lots. Coles Building Corporation and the Gibsons have applied for a two-lot separate subdivision, which the County is processing.

THIS APPLICANT NOW WISHES TO PROCEED AS A SUBDIVISION OF ONE LOT, BUT HAS A DENSITY PROBLEM UNDER FAUQUIER'S ZONING ORDINANCE.

When this applicant's lot was initially formed in 1968 (DB 250-625), it was perfectly legal to have one house per acre. Currently, in an area zoned R-1, the limit is lower -- one may have a maximum of .9 (nine-tenths) of a house per acre. Which is identical with saying that the minimum amount of land required per house (average over the subdivided area) is one and one-ninth acres per house.

THIS APPLICANT HAS ONLY ONE ACRE PER HOUSE.

I am therefore requesting a rezoning of the one acre involved here from R-1 to R-2.

I also proffer that, once the new subdivision is concluded and approved, I will apply within 90 days thereafter, for a rezoning of the area back to R-1, so as to preserve the character of zoning in this neighborhood. In addition, I proffer that, during the period when the zoning is R-2, there will be no new additional house constructed on this property.

I will thus be able to realize a new subdivision BY ENTIRELY LEGAL MEANS under R-2 zoning, with no disturbance to the character of the neighborhood and its zoning, and with no effect whatever on the Comprehensive Plan for for New Baltimore.

The property has been without legal boundaries for years now. THIS IS A WORKABLE SOLUTION. While spot zoning is not favored by the County, it is done on occasion.

I might note that the grandfather clause of the Zoning Ordinance does not help in this case. Under that clause, the past situation must have been entirely legal at that time, for it to remain legal when present requirements are more stringent.

And, in addition, this applicant is in no way responsible for the illegality in 1968 which brought down the old plat, DB 250-625. That was developer B. M. Brosius and the County which approved the subdivision with the illegal remnant. This applicant just happened along later and bought the property in 1970, before the illegality was discovered in current court proceedings.

A REZONING IS JUSTIFIED IN SUCH A SITUATION.

Leocade Leighton 4/25/03

Leocade Leighton (date)